



**REPORT OF THE AUDITOR OF PUBLIC ACCOUNTS
AUDIT EXAMINATION OF THE
FORMER MARSHALL COUNTY
SHERIFF'S SETTLEMENT - 1997 TAXES**

As of January 5, 1999

**EDWARD B. HATCHETT, JR.
AUDITOR OF PUBLIC ACCOUNTS
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Edward B. Hatchett, Jr. Auditor of Public Accounts

To the People of Kentucky

Honorable Paul E. Patton, Governor

John P. McCarty, Secretary

Finance and Administration Cabinet

Sarah Jane Schaaf, Secretary, Revenue Cabinet

Honorable Mike Miller, County Judge/Executive

Honorable Terry Douglas Anderson, Marshall County Sheriff

Honorable Brian Roy, Former Marshall County Sheriff

Members of the Marshall County Fiscal Court

Independent Auditor's Report

We have audited the former Marshall County Sheriff's Settlement - 1997 Taxes as of January 5, 1999. This tax settlement is the responsibility of the former Marshall County Sheriff. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards, Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for Sheriff's Tax Settlements issued by the Auditor of Public Accounts, Commonwealth of Kentucky. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

The former Sheriff prepares his financial statement on a prescribed basis of accounting that demonstrates compliance with the cash basis and laws of Kentucky, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the accompanying financial statement referred to above presents fairly, in all material respects, the former Marshall County Sheriff's taxes charged, credited, and paid as of January 5, 1999, in conformity with the basis of accounting described in the preceding paragraph.

Based on the results of our audit, we have presented a schedule of Comments and Recommendations, included herein, which discusses the following areas of noncompliance:

- The Former Sheriff Should Have Deposited All Public Funds Received Into An Official Bank Account On A Daily Basis
- The Former Sheriff Should Have Required Depository Institutions To Pledge Additional Securities Of \$859,540 As Collateral And Entered Into A Written Agreement To Protect Deposits Signed By Both Parties
- The Former Sheriff Should Have Paid Investment Earnings To The School District On A Monthly Basis

To the People of Kentucky

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In accordance with Government Auditing Standards, we have also issued a report dated March 18, 1999, on our consideration of the former Sheriff's compliance with certain laws and regulations and internal control over financial reporting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.

Auditor of Public Accounts

Audit fieldwork completed -
March 18, 1999

MARSHALL COUNTY
BRIAN ROY, FORMER SHERIFF
SHERIFF'S SETTLEMENT - 1997 TAXES

As of January 5, 1999

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Real Estate	\$ 839,495	\$ 2,144,355	\$ 2,360,561	\$ 1,304,958
Tangible Personal Property	201,768	302,363	481,494	1,394,248
Intangible Personal Property				99,777
Franchise Corporation	70,613	146,053	172,084	
Increased Through Erroneous Assessments	1,294	3,190	3,619	2,364
Penalties	7,606	20,036	21,221	12,489
Adjusted to Sheriff's Receipt	<u>(292)</u>	<u>(735)</u>	<u>(866)</u>	<u>(710)</u>
Gross Chargeable to Sheriff	<u>\$ 1,120,484</u>	<u>\$ 2,615,262</u>	<u>\$ 3,038,113</u>	<u>\$ 2,813,126</u>
<u>Credits</u>				
Discounts	\$ 14,526	\$ 33,261	\$ 39,448	\$ 44,737
Exonerations	7,941	20,576	22,039	21,376
Delinquents:				
Real Estate	28,192	75,030	79,273	43,824
Tangible Personal Property	1,155	2,727	2,755	4,124
Intangible Personal Property				456
Total Credits	<u>\$ 51,814</u>	<u>\$ 131,594</u>	<u>\$ 143,515</u>	<u>\$ 114,517</u>
Net Tax Yield	\$ 1,068,670	\$ 2,483,668	\$ 2,894,598	\$ 2,698,609
Less: Commissions *	<u>45,706</u>	<u>92,072</u>	<u>104,206</u>	<u>114,978</u>
Net Taxes Due	\$ 1,022,964	\$ 2,391,596	\$ 2,790,392	\$ 2,583,631
Taxes Paid	1,022,483	2,390,635	2,789,401	2,582,945
Refunds (Current and Prior Year)	<u>489</u>	<u>1,219</u>	<u>1,017</u>	<u>702</u>
(Refunds Due Sheriff)		**		
as of Completion of Fieldwork	<u>\$ (8)</u>	<u>\$ (258)</u>	<u>\$ (26)</u>	<u>\$ (16)</u>

* and ** See Page 4

MARSHALL COUNTY
 BRIAN ROY, FORMER SHERIFF
 SHERIFF'S SETTLEMENT - 1997 TAXES
 As of January 5, 1999
 (Continued)

* Commissions:

10% on	\$ 10,000
4.25% on	\$ 5,826,048
3.6% on	\$ 2,894,598
1% on	\$ 414,899

** Special Taxing Districts:

Health District	\$ (70)
Hospital District	866
Library District	(1,027)
Extension District	(26)
Soil Conservation District	2
Refuse District	(3)

Due Districts or (Refunds Due Sheriff)	<u>\$ (258)</u>
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MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT

As of January 5, 1999

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The Sheriff's tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a cash basis of accounting. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The former Sheriff maintained deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to law, the depository institution should pledge sufficient securities as collateral which, together with FDIC insurance, equals or exceeds the amount on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge of securities should be evidenced by an agreement that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. As of December 9, 1997, the uncollateralized amount on deposit in the normal tax account was \$859,540. The pledged securities and FDIC insurance did not equal or exceed the amount on deposit. The Sheriff had written agreements with the depository institutions, but the written agreements were not approved by the bank board of directors or signed by both parties.

MARSHALL COUNTY
 NOTES TO FINANCIAL STATEMENT
 As of January 5, 1999
 (Continued)

Note 2. Deposits (Continued)

The county official's deposits are categorized below to give an indication of the level of risk assumed by the county official as of December 9, 1997.

	Bank Balance
Collateralized with securities held by the county official's agent in the county official's name	\$ 0
Collateralized with securities held by pledging depository institution in the county official's name	5,466,474
Uncollateralized and Uninsured	<u>859,540</u>
Total	<u>\$ 6,326,014</u>

Note 3. Property Taxes

The real and personal property tax assessments were levied as of January 1, 1997. Property taxes were billed to finance governmental services for the year ended June 30, 1998. Liens are effective when the tax bills become delinquent. The collection period for these assessments was October 22, 1997 through April 1, 1998.

Note 4. Interest Income

The former Marshall County Sheriff earned \$12,198 as interest income on 1997 taxes. The former Sheriff distributed the appropriate amount to the school district as required by statute, and the remainder will be used to operate the Sheriff's office.

Note 5. Unrefundable Duplicate Payments And Unexplained Receipts Should Be Escrowed

The former Sheriff should have deposited any unrefundable duplicate payments and unexplained receipts in an interest-bearing account. According to KRS 393.110, the Sheriff's office should properly report annually to the Treasury Department any unclaimed moneys. After seven years, if the funds have not been claimed, the funds should be submitted to the Kentucky State Treasurer. For the 1997 taxes, the former Sheriff had \$1,630 in unrefundable duplicate payments and unexplained receipts. Therefore, the Sheriff's office should deposit \$1,630 to an interest-bearing account and send a written report to the Treasury Department.

COMMENTS AND RECOMMENDATIONS

MARSHALL COUNTY
BRIAN ROY, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
As of January 5, 1999

STATE LAWS AND REGULATIONS:

- (1) The Former Sheriff Should Have Deposited All Public Funds Received Into An Official Bank Account On A Daily Basis

The Auditor of Public Accounts under the authority of 45 KAR 1.070 established minimum accounting requirements, which include depositing tax receipts intact on a daily basis and reconciling receipts to daily computer printouts. During our audit testing of the Marshall County Sheriff for the 1997 tax year, auditors found three deposits in the month of March that had been held in the Sheriff's office before being deposited in the Sheriff's official bank account. The following schedule summarizes the deposits found in the month tested having a time lapse of more than 7 days between receipt date and date of deposit.

<u>Date of Receipt</u>	<u>Date of Bank Deposit</u>	<u>Amount of Deposit</u>	<u>Time Lapse</u>
03/11/98	03/20/98	\$10,761	9 days
03/12/98	03/20/98	5,501	8 days
03/23/98	03/31/98	9,925	8 days

We recommend that the Sheriff follow the procedures as set forth in 45 KAR 1.070.

Management's Response:

So Noted.

- (2) The Former Sheriff Should Have Required Depository Institutions To Pledge Additional Securities Of \$859,540 As Collateral And Entered Into A Written Agreement To Protect Deposits Signed By Both Parties

The former Sheriff's deposits were not adequately secured by \$859,540 as of December 9, 1997. Under provisions of KRS 66.480(1)(d) and KRS 41.240(4), banks are required to provide pledges of securities as collateral for interest-bearing and noninterest-bearing deposits if either exceeds the \$100,000 amount of insurance coverage provided by the Federal Deposit Insurance Corporation. The Sheriff should require the depository institution to pledge sufficient securities as collateral to secure deposits at all times. We also recommend the Sheriff's office enter into a written agreement with the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. According to federal law, 12 U.S.C.A section 1823(e), this agreement should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Management's Response:

I requested that they do this and provided the information for them to do this. I wish it had been done by then.

MARSHALL COUNTY
BRIAN ROY, FORMER SHERIFF
SCHEDULE OF COMMENTS AND RECOMMENDATIONS
As of January 5, 1999
(Continued)

(3) The Former Sheriff Should Have Paid Investment Earnings To The School District On A
Monthly Basis

According to KRS 134.140, "...at the time of his monthly distribution of taxes to the district board of education, the sheriff shall pay to the board of education that part of his investment earnings for the month which is attributable to the investment of school taxes..." During our audit, we found that the former Sheriff was not paying interest earned to the school on a monthly basis. For the months of May, June, and October 1997, and January, March, April, and May 1998, no evidence was found where interest earned on franchises taxes during these months were distributed. We recommend the Sheriff's office comply with KRS 134.140 by paying school board interest monthly.

Management's Response:

I was not aware that bookkeeper was not doing this with Franchise Taxes. We did comply with this on Normal Tax Accounts.

REPORT ON COMPLIANCE
AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF THE FINANCIAL STATEMENT
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



Edward B. Hatchett, Jr.
Auditor of Public Accounts

Honorable Mike Miller, County Judge/Executive
Honorable Terry Douglas Anderson, Marshall County Sheriff
Honorable Brian Roy, Former Marshall County Sheriff
Members of the Marshall County Fiscal Court

Report On Compliance And On Internal Control
Over Financial Reporting Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the former Marshall County Sheriff's Settlement - 1997 Taxes as of January 5, 1999, and have issued our report thereon dated March 18, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the former Marshall County Sheriff's Settlement - 1997 Taxes as of January 5, 1999 is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards.

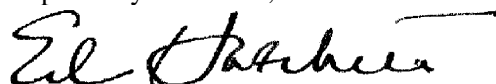
Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Marshall County Sheriff's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

Honorable Mike Miller, County Judge/Executive
Honorable Terry Douglas Anderson, Marshall County Sheriff
Honorable Brian Roy, Former Marshall County Sheriff
Members of the Marshall County Fiscal Court
Report On Compliance And On Internal Control
Over Financial Reporting Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

This report is intended for the information of management. However, this report, upon release by the Auditor of Public Accounts, is a matter of public record and its distribution is not limited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

Audit fieldwork completed -
March 18, 1999

